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November 6, 2018

VIA FACSIMILE – (916) 227-6282 - AND U.S. MAIL

Jill Y. Sewell
Office Chief
DEPARTMENT OF TRANSPORTATION
Division of Engineering
1727 30th Street, MS-43
Sacramento, CA 95816-8041

**Re: Contract No. 03-4F4604
03-Yol, SAC-50-2.4/3.2, L0.0/R5.3
Project ID 0314000165
Bid Opened: 10/25/2018**

Dear Ms. Sewell:

My office represents Studebaker Brown Electric, Inc. ("SBE") in regard to Caltrans Project 03-4F4604, 03-Yol, Sac-50-2.4/3.2, L0.0/R5.3 (the "Project"). We are in receipt of the bid protest submitted by St. Francis Electric ("St. Francis") and submit this letter in response.

In an attempt to have Caltrans pay over \$440,000 more for the Project, St. Francis claims that SBE did not meet the DBE goal for the Project. St. Francis' claim, however, is wrong.

St. Francis claims that SBE does not meet the DBE goal of 16% on the Project, because St. Francis improperly assumes that on bid item number 5, Portable Changeable Message Sign, that SBE is only renting the signs from KRC Safety Company, and thus SBE can only take 60% of the \$37,000 bid item as a credit for its DBE goal. St. Francis' assumption, however, is incorrect. As outlined in SBE's bid for bid item 4 (Traffic Control Systems) and bid item 5 (Portable Changeable Message Sign) SBE listed KRC as its subcontractor and listed KRC performing 100% of those bid items. SBE did this because KRC will not only be performing all the traffic control on the Project, but will also be not only providing the portable changeable message signs for the Project, but as part of the traffic control, setting up the signs, managing the signs, programming the signs, and moving the signs around the Project as necessary. As indicated by the 100% listing in the bid, KRC will be doing everything with the portable changeable message signs, in conjunction with handling the traffic control. SBE will not be handling the portable changeable message signs at all, which is why it listed KRC as 100% on bid item 5. Thus, contrary to St. Francis' claim, because SBE is not simply renting the portable

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changeable message signs from KRC, but is in fact subcontracting with KRC to perform the traffic control, as well as deliver, manage, program, move and handle all aspects of the portable changeable message signs, SBE is not limited to taking 60% of the \$37,000 bid item, but is entitled to utilize the entire \$37,000 of bid item 5 for its DBE calculation. (See Caltrans April 14, 2016, Fact Sheet For Federally Funded Contracts stating DBE participation is calculated as "[t]he entire amount of that portion of a construction contract that is performed by the DBE's own forces . . .".) Given that KRC is performing all of bid item 5 SBE exceeded the DBE goal on this Project.

We hope this clarifies any confusion with this issue. Should you have any questions, please do not hesitate to contact me. Because SBE exceeded the DBE goal and is the lowest, responsive, responsible bidder, Caltrans should reject St. Francis' protest and award the Project to SBE.

Very truly yours,

DOWNEY BRAND LLP



Matthew J. Weber

Enclosure

MJW:bs

cc: Client